REMARKS

The Examiner has issued a Restriction Requirement in the above application. The Examiner has divided the claimed invention into the following groups:

Group I, claim(s) 1-8, drawn to a method for modifying a biopolymer to enhance endothelial cell attachment and growth or a method of making an artificial cornea or growing endothelial cells for use in a cornea;

Group II, claim(s) 9-10, drawn to an attachment mixture;

Group III, claim(s) 11-17, drawn to an artificial corneal transplant;

Group IV, claim(s) 18-21, drawn to a method of repairing a damaged cornea;

Group V, claim(s) 22-24, drawn to a method for making retinal pigment epithelial cells for retina transplantation;

Group VI, claim(s) 25, drawn to a composition comprising retinal pigment epithelial cells for retina transplantation; and

Group VII, claim(s) 26, drawn to a method repairing a retina in vivo.

According to the Examiner Groups I-VII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features. Because this application is derived from a PCT filed application, PCT rules apply for Restriction Requirements.

In particular, the Examiner states that Group I is drawn to a method for modifying a biopolymer to enhance endothelial cell attachment and growth, which is anticipated by Klee et al. As special technical features cannot be recited in other known inventions, Applicant's inventions do not contribute a special technical feature when view over the prior art, they do not have a single inventive concept and so lack unity of invention.

Applicant elects Group III with traverse.

Section 806.02 of the MPEP states, "For the purpose of a decision on the question of restriction, and for this purpose only, *the claims are ordinarily assumed to be in proper form and*

patentable (novel and unobvious) over the prior art" (emphasis added). Applicant contends that the Examiner is taking patentability into account when reviewing the groups of inventions under PCT Rule 13.1. This is improper. Applicant respectfully requests withdrawal of this restriction requirement.

Applicant submits that the claims of Group I and Group III were improperly restricted, and should be included as one group. The claims of Group I are directed to methods for making a biopolymeric matrix and transplant support for ***corneal*** endothelial cells, not endothelial cells in general (such as skin, etc.). The claims of Group III are directed to the ***corneal*** transplant support compositions made using the methods of Group I. The claims of Groups I and III overlap in scope or are otherwise obvious variants and not capable of being used to make another composition or process as they are limited to corneal epithelial cells. As such, according to MPEP § 806.05(j), Groups I and III should not be subject to a restriction requirement.

Should the Examiner have any questions or believe an interview would expedite prosecution of the instant application; the Examiner is invited to telephone undersigned counsel.

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Respectfully submitted,

JACOBSON HOLMAN PLLC

By: _____
Joseph G. Contrera
Reg. No. 44,628

400 Seventh Street, N.W.
Washington, D.C. 20004
(202) 638-6666
Atty. Dkt. No.: P69044US0
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